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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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E. LYNN HANSEN, as Personal  
Representative on behalf of the heirs of  
SHAWN EMERY, et al.,

Plaintiffs,

v.

CHEVRON U.S.A., INC., et al.,

Defendants.

**MEMORANDUM DECISION AND  
ORDER GRANTING MOTION TO  
DISMISS CLAIMS OF PLAINTIFF  
KEEGAN WESTPHAL**

Case No. 2:08-cv-959 DN

District Judge David Nuffer

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Defendant Chevron U.S.A. Inc. has moved to dismiss the complaint of Plaintiff Keegan Westphal under Fed. R. Civ. P. 16(f)(1) and 41(b) for failure to file a notice of appearance, as ordered by the court when it permitted Westphal's counsel to withdraw, and for failure to prosecute his claims in this case.<sup>1</sup> In its Order Granting Motion for Withdrawal of Counsel for Plaintiff Keegan Westphal, the court ordered Mr. Westphal (or new counsel retained by him) to enter a notice of appearance within 21 days of the date of the order, which was entered on July 28, 2011.<sup>2</sup> Mr. Westphal was specifically warned that failure to do so would result in sanctions under Fed. R. Civ. P. 16(f)(1), "including but not limited to dismissal or default judgment."<sup>3</sup>

More than one year has passed, and Mr. Westphal has not entered an appearance and has not participated in any of the proceedings in this matter. Mr. Westphal also has not filed any response to Chevron's motion to dismiss, and the time for doing so has expired. The court therefore concludes that Mr. Westphal has abandoned his complaint, which must be dismissed

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<sup>1</sup> Motion to Dismiss Plaintiff Keegan Westphal, docket no. 89, filed on August 2, 2012.

<sup>2</sup> Docket no. 61.

<sup>3</sup> *Id.* at 1.

under Fed. R. Civ. P. 16(f)(1) and 41(b) for failure to appear and prosecute his claims in this case.

**ORDER**

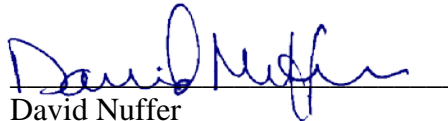
IT IS THEREFORE ORDERED that the Motion to Dismiss Plaintiff Keegan Westphal (docket no. 89) is GRANTED.

IT IS FURTHER ORDERED that Plaintiff Keegan Westphal's claims against Defendant Chevron U.S.A. Inc. are DISMISSED WITH PREJUDICE.

IT IS FURTHER ORDERED that the clerk of the court close this case forthwith.

Dated August 21, 2012.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "David Nuffer", is written over a horizontal line.

David Nuffer  
United States District Judge